

THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

EMMANUEL GEOVANNY MARTINEZ,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 4:21-cv-2271
	§	
WAREHOUSE WHEEL & TIRE,	§	
L.L.C., and JOSE SALDANA,	§	
INDIVIDUALLY,	§	
	§	
Defendants.	§	

PLAINTIFF'S ORIGINAL COMPLAINT

SUMMARY OF SUIT

1. Defendant Warehouse Wheel & Tire, L.L.C. (the "Company") offers full service wheel repair and tire facility, specifically but without limitation, servicing luxury and high line automobile dealerships. The Company is owned and operated by Jose Saldana ("Saldana"). Reference to the "Defendants" is collectively to the Company and Saldana.

2. Unfortunately, the Defendants failed to pay their non-exempt employee, Plaintiff Emmanuel Geovanny Martinez (the "Plaintiff"), overtime compensation for the overtime hours that he worked in violation of the Fair Labor Standards Act, 29 U.S.C. § 207 (2021) ("FLSA").

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction under 29 U.S.C. § 216(b) (2021) and 28 U.S.C. § 1331 (2021).

4. The Plaintiff brings this Complaint in the district in

which the Company does business and where a substantial portion of the conduct charged herein occurred. As such, venue is proper in this district pursuant to 28 U.S.C. § 1391(b) (2021).

THE PARTIES

5. The Plaintiff was employed by the Company since October 2018 as a machine operator and, for a time, as a working night manager. In performing his duties for the Company, the Plaintiff engaged in commerce or in the production of goods for commerce.

6. The Company, an enterprise engaged in commerce, is a Texas limited liability company with its principal place of business located in Houston, Texas. The Company has acted, directly or indirectly, in the interest of an employer with respect to the Plaintiff. The Company may be served with process by serving Jose Saldana, its registered agent, at 820 FM 1960 E., Houston, Texas 77073.

7. Saldana has acted, directly or indirectly, in the interest of an employer with respect to the Plaintiff. Saldana may be served with process at 820 FM 1960 E., Houston, Texas 77073.

BACKGROUND

8. The Company has been in business for approximately fifteen (15) years and offers full service wheel repair and tire replacement. During the past three (3) years, the Company has generated gross annual revenues of at least \$500,000.00.

9. The Plaintiff was employed by the Company as a machine

operator and, prior to 2019, as a working supervisor.

10. The Plaintiff typically worked between ten (10) and thirteen (13) hours per day, six (6) days per week. Although the Plaintiff regularly worked far in excess of forty (40) hours per week, he was paid a day rate for all of his hours worked. As a non-exempt employee, the Plaintiff was entitled to be paid at an overtime rate of pay for all hours worked in excess of forty (40) hours in a workweek. 29 U.S.C. § 207 (2021).

11. The Plaintiff resigned when the Company informed its employees on May 14, 2021, that they would not be paid in full for work performed because "money was tight."

12. No exemption excuses the Defendants from paying the Plaintiff overtime compensation for all hours worked over forty (40) hours each work week. Nor have the Defendants made a good faith effort to comply with the FLSA. Instead, the Defendants knowingly, willfully, or with reckless disregard carried out an illegal pattern or practice regarding unpaid overtime compensation with respect to the Plaintiff.

13. Saldana has a substantial financial interest in the Company and has been directly involved in:

- a. the hiring and firing of its employees;
- b. its day-to-day operations as they relate to defining the terms of employment, workplace conditions, and the level of compensation to be received by its employees;
- c. its finances; and

d. corporate decisions.

CAUSES OF ACTION

A. Unpaid Overtime Compensation

14. The Plaintiff regularly worked in excess of forty (40) hours per week for which he was not compensated at an overtime rate of pay.

15. As a non-exempt employee, the Plaintiff was entitled to be paid overtime compensation for all hours worked in excess of forty (40) hours in a workweek. 29 U.S.C. § 207(a) (2021). Accordingly, the Defendants' practice of failing to pay the Plaintiff overtime compensation was and is a clear violation of the FLSA.

16. No exemption excused the Defendants from paying the Plaintiff overtime compensation for hours worked over forty (40) hours in a workweek. Nor did the Defendants make a good faith effort to comply with the FLSA. Instead, the Defendants knowingly, willfully, or with reckless disregard carried out their illegal pattern or practice regarding overtime compensation with respect to the Plaintiff.

17. Accordingly, the Plaintiff is entitled to be paid overtime compensation for his hours worked in excess of forty (40) hours each workweek.

18. Additionally, the Plaintiff is entitled to an amount equal to all of his unpaid overtime compensation as liquidated

damages.

19. Finally, the Plaintiff is entitled to reasonable attorneys' fees and costs in this action. 29 U.S.C. § 216(b) (2021).

PRAYER

WHEREFORE, Plaintiff Emmanuel Geovanny Martinez requests that this Court award him judgment, jointly and severally, against Defendants Warehouse Wheel & Tire, L.L.C., and Jose Saldana, Individually, for the following:

- a. damages for the full amount of the Plaintiff's unpaid overtime compensation;
- b. an amount equal to the Plaintiff's unpaid overtime compensation as liquidated damages;
- c. reasonable attorneys' fees, costs and expenses of this action;
- d. pre-judgment interest and post-judgment interest at the highest rates allowable by law; and
- e. such other and further relief as may be allowed by law.

Respectfully submitted,

/S/ Mark Siurek  
Mark Siurek  
TBA# 18447900  
Fed ID# 9417  
3334 Richmond Ave, Suite 100  
Houston, Texas 77098  
713-522-0066 (telephone)  
713-522-9977 (fax)  
[msiurek@warrensiurek.com](mailto:msiurek@warrensiurek.com)

ATTORNEY-IN-CHARGE FOR PLAINTIFF

OF COUNSEL:

WARREN & SIUREK, L.L.P.  
Patricia Haylon  
TBA# 09281925  
Fed ID# 13941  
3334 Richmond Ave, Suite 100  
Houston, Texas 77098  
713-522-0066 (telephone)  
713-522-9977 (fax)  
[thaylon@warrensiurek.com](mailto:thaylon@warrensiurek.com)